

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 843**

Introduced by Lautenbaugh, 18.

Read first time January 08, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections  
2 28-502, 28-503, and 28-504, Reissue Revised Statutes of  
3 Nebraska; to change provisions relating to arson; and to  
4 repeal the original sections.

5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-502, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           28-502 (1) A person commits arson in the first degree if  
4 he or she intentionally damages a building or property contained  
5 within a building by starting a fire or causing an explosion  
6 when another person is present in the building at the time and  
7 either (a) the actor knows that fact, or (b) the circumstances are  
8 such as to render the presence of a person therein a reasonable  
9 probability.

10           (2) A person commits arson in the first degree if a fire  
11 is started or an explosion is caused in the perpetration of any  
12 robbery, burglary, or felony criminal mischief when another person  
13 is present in the building at the time and either (a) the actor  
14 knows that fact, or (b) the circumstances are such as to render the  
15 presence of a person therein a reasonable probability.

16           (3) Arson in the first degree is a Class II felony.

17           Sec. 2. Section 28-503, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           28-503 (1) A person commits arson in the second degree if  
20 he or she intentionally damages a building or property contained  
21 within a building by starting a fire or causing an explosion or if  
22 a fire is started or an explosion is caused in the perpetration of  
23 any robbery, burglary, or felony criminal mischief.

24           (2) The following affirmative defenses may be introduced  
25 into evidence upon prosecution for a violation of this section:

1 (a) No person other than the accused has a security or  
2 proprietary interest in the damaged building, or, if other persons  
3 have such interests, all of them consented to his or her conduct;  
4 or

5 (b) The accused's sole intent was to destroy or damage  
6 the building for a lawful and proper purpose.

7 (3) Arson in the second degree is a Class III felony.

8 Sec. 3. Section 28-504, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 28-504 (1) A person commits arson in the third degree if  
11 he or she intentionally sets fire to, burns, causes to be burned,  
12 or by the use of any explosive, damages or destroys, or causes to  
13 be damaged or destroyed, any property of another person without ~~his~~  
14 such other person's consent. Such property shall not be contained  
15 within a building and shall not be ~~7 other than~~ a building or  
16 occupied structure.

17 (2) Arson in the third degree is a Class IV felony if the  
18 damages amount to one hundred dollars or more.

19 (3) Arson in the third degree is a Class I misdemeanor if  
20 the damages are less than one hundred dollars.

21 Sec. 4. Original sections 28-502, 28-503, and 28-504,  
22 Reissue Revised Statutes of Nebraska, are repealed.